



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

That case is authority for the proposition that a court of equity will act where nothing can answer the justice of the case but the performance of the contract in specie, and this even where the subject of the contract is what, under ordinary circumstances, would be only an article of merchandise. In such a case, when, owing to special features, the contract involves peculiar convenience or advantage, or where the loss would be a matter of uncertainty, then the breach may be deemed to cause irreparable injury."

A qualification of the well known doctrine of *Lumley v. Wagner*, 1 De G. M. & G. 604, followed in the principal case, was recently made in *Donker & Williams Co. v. Vance* (Cir. Ct. Cook County, Illinois—21 Nat. Corp. Rep. 270), where the doctrine was held not to apply where the nature of the employment is such as to bring employer and employee in daily personal contact, and the employee is subject to the orders of the employer—since these circumstances would probably render the enforced service peculiarly irksome and disagreeable for both. See *Metropolitan Ex. Co. v. Ewing*, 42 Fed. 198; *Strawbridge Lith. Co. v. Cranes*, 20 Civ. Pro. 240; note 6 L. R. A. 653; *McCaul v. Braham*, 16 Fed. 37, and note.

FURTHER RULINGS IN BANKRUPTCY—*Lien of Attachment—Validity*.—A lien obtained by an attachment more than four months prior to bankruptcy proceedings, though the judgment upon the attachment was rendered within that period, as not invalidated by sec. 67f of the Bankruptcy Act, providing that "all levies, judgments, attachments or other liens" obtained within that period against the insolvent shall be void.—*In re Beaver Coal Co.* (C. C. A.), 113 Fed. 889.

Per Gilbert, Circ. J. :

"This view is in harmony with other provisions of the bankruptcy law. Judgments rendered, even after bankruptcy, are sustained as determining the claim thereby adjudged. Section 63a. In brief, the intention of the act was to set aside preference liens obtained by legal proceedings within four months prior to bankruptcy. The lien in the present case was 'obtained' by the attachment. The bankruptcy law recognizes all valid liens that existed four months prior to bankruptcy proceedings. The attachment lien was not discharged nor was its nature altered by the judgment. It required no judgment or levy to make it good as a lien. It would have remained a valid lien if no judgment had been taken. No lien was 'obtained' by the judgment, and none was lost thereby."

In re Lesser, 108 Fed. 201, and *In re Johnson*, 108 Fed. 373, are disapproved. The following, from *In re Blair*, 108 Fed. 529, is quoted with approval :

"Where, however, the lien is created by the attachment, the judgment and levy create no new or additional lien, but only enforce a lien already existing. Hence in this case the levy and execution did not affect the property attached with a lien avoided by the bankrupt act, but only enforced a lien already existing, which lien the bankrupt act expressly protected."

Social Club.—Involuntary proceedings cannot be maintained against a social club of which the principal object is social intercourse, any business conducted by it being a mere incident. Being a corporation it must be "engaged principally in . . . trading."—*In re Fulton Club* (D. C.), 113 Fed. 997.

Corporations—Right to File Petition.—A corporation, desirous of being adjudicated a bankrupt, and, under section 4 of the Bankruptcy Act, not being entitled to its benefits as a voluntary bankrupt, and not being subject to involuntary bankruptcy under section 59, except on petition of three of its creditors, procured the assignment by one of its creditors of a part of its claim. *Held*, an evasion of the requirements of the Bankruptcy Act.—*In re Independent Thread Co.* (D. C.), 113 Fed. 998.

Per Kirkpatrick, District J. :

"If an adjudication were made under these circumstances, it would, in effect, amount to a nullification of that part of section 4 of the bankrupt act above referred to, and permit a corporation, by acting in collusion with a single creditor, to obtain the benefits of the law which the legislature saw fit to deny them."

Discharge—Failure to Disclose.—A bankrupt having a reversion in certain real estate after the expiration of a life estate therein, made no reference to this property in his petition or schedules, nor upon his examination. *Held*, That a discharge should be denied, and that the fact that he acted under the advice of counsel, to the effect that he had no interest in the real estate, does not free him from the legal consequences of making an untrue representation to the court.—*In re Stoddart* (D. C.), 114 Fed. 486.

State and Federal Courts—Comity.—Judgment having been obtained and execution having issued June 28, 1901, in a State court, defendant on October 28, 1901, filed his voluntary petition in bankruptcy, and an injunction having been awarded to restrain a sale under the execution, the execution creditors moved the bankruptcy court to dissolve it. *Held*, That the motion should be granted, the State court by reason of its priority of jurisdiction being the proper forum to determine the effect of the bankruptcy proceedings upon the execution.—*In re Shoemaker* (D. C. W. Dist. Va.), 112 Fed. 648. This is the same subject considered by the Circuit Court of Appeals in *Carling v. Seymour Lumber Co.*, 113 Fed. 483, *ante*, p. 70, in which the same conclusion was reached. The opinion of Judge McDowell gives evidence of a careful consideration of all the authorities in point.

Provable Claims—Mutual Credit.—A debtor of a bankrupt, who, as quasi surety, has paid claims against the bankrupt, is held in *Morgan v. Wordell* (Mass.), 55 L. R. A. 33, to be entitled to set them off in a proceeding to enforce the debt against him as a "mutual credit," although they could not have been enforced by the original creditor, since the provision of sec. 68b, forbidding set-off of claims "not provable against the estate," refers, not to claims which could not be proved in the bankruptcy proceeding, but to those not provable in their nature. With this case is a note reviewing the authorities on set-off in bankruptcy cases.

Preferences.—New Credits.—The amount recoverable from a preferred creditor, against which, under sec. 60c of the bankruptcy act, he is entitled to set off further credits extended to the bankrupt in good faith, is held, in *Peterson v. Nash Bros.* (C. C. A. 8th C.), 55 L. R. A. 344, not to be limited to the amount of preference knowingly received, but to include payments innocently received, which he is entitled to surrender under sec. 57g, as a condition of proving his claim in the bankruptcy proceedings.

The right of a creditor to set off new credits given after a preference is considered in a note to this case.